

To: Honorable Judge Paul G. Gardephe, U.S.D.J.  
cc: President of the United States (POTUS);  
Department of Justice (DOJ); NAACP; ACLU;  
Black Lives Matters;  
Re: United States v. Brandon Green; Case No. 16-CR-281 (PGG)

## MR. GREEN'S SENTENCING MEMORANDUM

### I. Introduction

First and foremost Let me thank you for your time. In anticipation of my upcoming sentence I'm submitting this Sentencing Memorandum for your consideration, to be read in conjunction with and separate to my Counsel's own submissions here. I know that you've already devoted a substantial amount of time and energy into this case, especially being that I exercised my right to have a trial by jury, and I pray that this will not be held against me here; so, I'll do my best to be brief, however, the stakes are high here: I'm facing up to life with up to and over 20 years in just mandatory minimum sentences. Therefore, I feel that this warrants me taking my time, and covering everything that can affect the outcome of this case.

Herein, I'll provide you with information to help shed light on the prejudices I suffered throughout this case; and, I intend on explaining my case to you from my perspective. I'll show how my civil rights were violated, and, how I was maliciously and vindictively prosecuted because I knew the Co-Defendant's (in Particular Latique Johnson), and moreover, because I would not testify on behalf of the government (they called it testifying on their behalf, but the truth is that it was them wanting me to assist in fabricating their story here). Therefore, the government fabricated a case against me, and had Cooperating Witnesses (CWs) assist with their fabricated case by lying on the stand, in an attempt to, among other things, place me in the role as a member of, and the drug supplier for, the Blood Hound Brims (BHB) and the Elmira Drug Conspiracy. Again, these things are untrue, and based off of, inter alia, lies; and I will show this by highlighting relevant portions of the transcripts / record to support this.

I will also point out to you the issues surrounding the so-called evidence, and testimony of several CWs used against me here. I'll highlight and show how the Government's own witnesses state that this case is based off of lies, and false / fabricated evidence. And I'll explain how Predecessor Counsel, the attorneys Eric Bresilin and Melissa Geller, violated my right to the effective assistance of counsel by, among other things, failing to go over relevant matters and case filings, and, conducting stipulations without my consent and over my objections that such not be done. All of these things were unfair, a denial of my Constitutional Rights, and did in fact undermine the fairness of the proceedings here. These issues must now be addressed.

Therefore, I'm writing this Court, and also reaching out to, among other people, agencies and organizations, the President of the United States (POTUS), the Department of Justice (DOJ), Black Lives Matter, the ACLU, the NAACP, U.S. House Of Representatives Committee On Government Reform, Kim Kardashian, Professor babe Howell, U.S Distract Judge Tucker Melancon (9th cir), Law Professor Lawrence Benner, Law Professor Samuel Gross, Law Professor George Harris, Northwestern University Law School Center On Wrongful Convictions,

Justice Anthony Kennedy, Professor Barbara O'Brien, Legal scholar Stepanos Bibas, Barry Scheck, Peter Neufeld, Jim Dwyer, Alexandra Natapoff, Sean 'JAY-Z' Carter, Cardi B, Isaac Wright several news agencies, media outlets, and social media outlets, just to name a few. The purpose of all this is to exercise my First Amendment Rights under the United States Constitution to Petition for Redress, and Free Speech, and, in doing so receive a remedy to my complaints here. After all, that is how our Democracy is supposed to work.

I hope that doing this will not only remedy the Civil Rights violations that I was subjected to, but I also pray that this will be an impetus to bring about changes in our criminal justice system. I do not want others to have to face the seemingly insurmountable obstacles that I've faced while attempting to get a peek at this exclusive - and nearly extinct - animal called "Justice." That is not how it is supposed to be, and had I received such I know that I'd not be in here today. So, please keep these things in mind when reading this Sentencing Memorandum; and, when you see where the system failed me, please take the necessary steps to correct these things so that it can be said that justice was had here.

## II. Conclusion

Due to the nature and extent of the Civil Rights Violations suffered by me in this matter, all charges shall be dismissed, with prejudice, and I shall be immediately released from custody.

## III. Summary of Relevant Facts

On or about May 16 , 2017, I was arrested on a Four Count Indictment for allegedly violating several Federal Laws, to-wit: Count One, Racketeering Conspiracy, Count Two, Assault and Attempted Murder and Conspiracy to Commit Murder in Aid of Racketeering, Count Four, Conspiracy To Distribute Controlled Substance(s) and, Count Five, Use of a Firearm in Connection with Racketeering and Narcotics Conspiracy. From the very beginning it was made clear to me that my arrest had everything to do with me knowing the Co-Defendants, in particular Latique Johnson (hereafter "Mr. Johnson"), and nothing to do with me actually committing any crimes. Right after my arrest, the Government, through my attorneys, attempted to offer me a deal to cooperate: They gave me someone's alias, and asked me to identify him, stating that he was the drug supplier for the Elmira Drug Conspiracy and the BHB, and, they asked me to testify, moreover, as to information to assist in their prosecution against Mr. Johnson.

In particular, Ms. Geller stated that: "you know how to speak properly, and could therefore satisfy the elements." I stated, in response, that I had nothing to say to them, and that I had no idea who the person was behind the alias, and knew of nothing about the Co-Defendants: I maintained to them through my attorney that I was legitimately in the music business, and that this is how I knew these people.

It was clear though that this was a witch hunt by the prosecutors / federal agents involved here; that they were willing to do whatever it took to convict Mr. Johnson and the BHB, and that if you were not for them, they were against you, regardless of your guilt or innocence. This was meant to send a message to those who refused to cooperate, even if they had nothing to offer, they better get with the program and start fabricating stories like everyone else. I just could not

do this though--I'm a better person than that. However, this left me as a target for the Prosecution, so they placed me in the role of the drug supplier for BHB and the Elmira Drug Conspiracy, and even tried to concoct a story about a false murder that never actually took place. Thankfully the jury rejected that fabrication. I only wish they would have seen through the rest of the lies.

I also want to mention that before trial I was offered several plea offers, none of which I really had an opportunity to go over with Predecessor Counsel, and none of which I had an opportunity to accept or deny. For some reason, I just found myself headed to trial one day, not really understanding all that was going on. After all, that is what I relied on my attorney for: To advise me as to what is happening and what I should do. This just caused more issues here, as it is evident that Predecessor Counsel violated my rights in several respects, and this just further made it impossible for me to receive a fair trial hear.

Predecessor Counsel failed to go over with me important developments and relevant issues in this case, did not discuss pleadings with me before filing them, and did not correct the issues in those same pleadings once I was belatedly made aware that they were filed, and had a chance to review them and see the issues contained therein. Additionally, Predecessor Counsel also stipulated to several things without my consent and over my objection; for example, I never agreed to the stipulation of the introduction of the 2010 Traffic Stop, however, Predecessor Counsel stipulated to this. Predecessor Counsel then refused to move to withdraw that stipulation, or to have that information suppressed. Moreover, this admission of guilt by Predecessor Counsel without my consent and over my objections was highly prejudicial, violated the ABA Standards Governing the Defense, and deprived me of my rights to, inter alia, the effective assistance of counsel and a fair trial. I will discuss this more later on though.

Looking back, it is clear to me that I had no chance at receiving anything that closely resembled a fair trial; and had I understood my rights more at the time, and listened to my gut and not my previous attorneys, I would have spoken up and complained to the Court, to put the Court on Notice of all the issues and violations of my rights that were taking place. Unfortunately, like so many other citizens ill-informed in the law, I was led astray by those in charge with protecting my rights and enforcing the law. However, since I've not yet been sentenced, and because I still have post-trial pleadings to file, it is not too late to address these concerns; and, if this Court will not, then at least this document will serve to memorialize these issues for the purposes of appeals and post-conviction pleadings and proceedings. I still can protect my rights.

Fortunately, I've been diligently working at better understanding my rights and responsibilities with respect to the same, and, have been therefore better able to stand up for and protect them. In particular, once I began to learn that I had a responsibility to put the Court and/or my lawyer on notice of a violation of my rights, or that I did not agree to what was happening, I began to do so: I began to orally complain to my Predecessor Counsel, and, started writing letters to him and the Court. Also, I tried and continue to try and do my best to document all of my complaints and concerns now, and have and continue to file pleadings with this Court to address these issues and my concerns.

I'm now beginning to see that my problems are not just my problems; that these issues have for some time, and continue to, plague and erode the American System of Justice. This is bigger than me, but I will not let that fact deter me from putting up a fight. Thankfully, those whom founded this Country drafted the Constitution in such a way as to ensure that our rights could be protected if we know how to go about doing so: which entails us to exercise our First Amendment Rights to Petition For Redress and Free Press. Done correctly, and just a single person like myself can bring about changes in a Country and System of Government as large as ours. All that it takes is for someone like myself to get my message to the People, and once the message begins to spread, and "all of our" voices are heard, the system will correct itself. It will have no other choice. That is because it is a system designed "By the People, for the People." So, the People only need to stand up for what it is that they want, and changes will follow. That is what I'm trying to do here.

Therefore, this Sentencing Memorandum is designed to capture the attention of all those who read it, and all of those whom have a duty and desire to learn what is wrong, and fix what is wrong, with our current System of Justice. Read this Memorandum and you will get a glimpse at the obstacles that I encountered, and the problems that plague our Criminal Justice System. You will see the difficulties faced by those accused of a crime in this Country, and how innocent until proven guilty is no longer the case: Now, you are guilty until you prove your innocence, and even then you face a great deal of problems if you are able to do so. Please read this pleading and see the prejudices I suffered throughout this Case, and the problems that I still have and continue to come up against even after trial. Please, take heed to my complaints herein, and help me to remedy the Constitutional violations that I have and continue to suffer here. Please, I need your help.

#### IV. Prejudicial Matters Surrounding This Case

There were countless prejudices suffered by me throughout this entire case. From the time of my arrest, while preparing for trial, during and after trial, and even in my attempt to file post trial motions, I've been subjected to constant violations of my rights. I was lied to and misled by previous attorneys, threatened and coerced by the Government, subjected to a malicious and vindictive prosecution, based upon false and fabricated evidence and testimony, and stipulations and agreements made by my previous attorneys without my consent and over my objections. These proceedings were fundamentally unfair.

I will now show you specific examples of these issues. I'll cite from the record and trial transcripts, and illustrate how my previous attorneys failed to provide me effective assistance by doing things like filing pleadings and agreeing to stipulations without my consent; I'll give examples of false, fabricated, and contradictory testimony of the Government's Cooperating Witnesses; I'll provide testimony of Government Witnesses whom also state that this case is based upon lies; and, I'll give examples and provide information to support my contentions that this was a malicious and vindictive prosecution. These examples provide proof that my prosecution here was illegal, and that these proceedings were fundamentally unfair--and they raise serious concerns about the problems that plague our criminal justice system.



After providing these things, I'll then move on to argue how such prejudiced my rights to a fair trial, and show with supporting case law and legal theory why this case should now be dismissed.

With that said, here are the examples of the prejudicial matters surrounding this case:

#### A. Prosecutorial and Government Misconduct

I've been subjected to unethical conduct by Government Officials here since the start of this case, and it continued throughout the entire trial. Such conduct was not only unethical, but at times was also illegal. I was subjected to conspiracies to, and actual violations of, my civil rights, and these things were done knowingly, willfully, deceitfully, and moreover maliciously by those in charge with enforcing the laws. See Title 42 U.S.C. Section 1983, and Title 18 U.S.C. Sections 241 and 242. And here is a list of some of these violations of my rights which did in fact undermine the fairness of these proceedings, and cause me to suffer severe prejudices.

1. The Officer(s) whom arrested me on an arrest warrant in Bridgeport, Conn., committed several crimes, and violated my rights when they lied in their arrest reports, and doctored the scene of my arrest after they conducted an illegal entry and search of the residence I was at: The officers claimed that there was money on the floor near the firearms they alleged that they found in a closet, however, review of the photographs taken reveal that this is a lie. (See Government Exhibit(s), Photos of the Search, none of which show any money near any weapons.)
2. The Officer(s) whom testified at my suppression hearing lied when they alleged why they pulled over Jennifer Turcios.
3. The Officer(s) stated that the allegedly pulled her over because she was acting suspiciously; specifically, they said that she got in her car, drove a few meters, looked at them, then drove up to the house, went back inside, came back out the house a second time and then got back in her car and drove away; however, the agent whom was closest to the house stated that this never happened (See Suppression Hearing Transcripts "SH" Pp 252 LL 1-16: There Agent Masterson stated that she never did any of this, that she never went into the apartment a second time. Her traffic stop was clearly illegal.)
4. Officer Sisco - the Officer involved in the 2010 illegal Traffic Stop - knowingly and intentionally committed perjury by lying to the jury at my trial.
5. Officer Sisco lied at my trial when he alleged to have found cocaine in my waist band back in 2010 during the Traffic Stop. (I refuted this at a civil lawsuit; and all charges against me were dismissed).
6. Officer Sisco also committed perjury when he lied at my trial when he alleged that the 2010 Traffic Stop took place at Mohegan Ave and 180th Street; when in fact it occurred almost a mile away at Monterey Avenue and East 180th Street. And it was proved at trial that he was lying about this, and when caught in such lie, all he could say from then on out was: I DON'T RECALL where the arrest took place at.

7. And the Government is responsible for making him lie (commit perjury) about the arrest location so that such would go along with their fabricated case against me; i.e., that allegedly I was a drug supplier, and was allegedly operating out of the Honeywell Complex, which is right near Mohegan Avenue. This perjury was done intentionally, maliciously, and vindictively, and constitutes a crime committed by the Prosecution and Officer Sisco here.

8. Furthermore, the Government manipulated, lied to, and misled the Grand Jury when the agents / investigators whom took the 302 notes wrote down and testified to things that the witnesses NEVER actually said. And, these same lies were used against me at trial; and / or, were attempted to be used against me at trial.

9. This is evinced by the fact that several Cooperating Witnesses, at trial, testified to there being inconsistencies in the 302 notes; for example:

A. I don't know why that person wrote it. I guess you have to speak with the person who wrote it, but I DIDN'T SAY IT.

Q. That's on Page 1 four paragraphs down. The paragraph starts "During the car ride."

A. I remember some of those statements, but I don't ever remember saying "boss." Maybe that's something they write as a note, just like they put shorthand.

THE COURTS: No, No.

See TT Pp 2729. (Emphasis Added).

10. And this is not the only time during my trial that a Cooperating Witness alluded to discrepancies in the 302 investigatory notes compared to what they "actually" said when questioned:

Q. And you said, you sat in these 30 meetings. 30 plus meetings, and people were taking notes, right?

A. Correct.

Q. Now, did you think that they were just writing their own thoughts?

A. I don't know what they were writing on their pads. They were just writing.

Q. They were just writing. It could have been anything, right?

A. Correct.

TT Pp 709. And it goes on:

Q. Okay. And if there is a difference between your account on the stand and what's in those notes, it's not because you are telling something different today, right. It's not that.

A. I don't know.

....

A. I don't know why somebody writes what they write. I'm not the one writing. So I don't know. All I'm doing is talking.

See Id.

11. The Cooperating Witnesses testimony here clearly demonstrated that the 302 investigatory notes were doctored:

Q. Does this remind you that you gave a proffer session on September 13, 2018?

....

A. Like I said, I don't know what this is, and I don't remember saying anything about talking to Showtime on the phone. Only person I spoke to on the phone from jail was Ten Thousand, that's it.

See TT Pp 671, 672.

12. Moreover, it was multiple CWs stating that the 302 notes contained testimony that was different than what they told the investigator. This causes a greater need for concern, and cast serious doubt upon the integrity of these proceedings.

13. Even more troubling is the fact that the same Government Official whom investigated this case, took the notes, and testified before the grand jury (for 3 different indictment attempts), is also the same Government Official whom was in the Court room during my trial sitting with and assisting the Prosecutors at their table. This man, Stefano "Steve" Barcinini. (His hands on approach was needed to ensure that fabricated case stayed consistent, and succeeded in wrongfully convicting us. I believe that he was the Puppet Master whom controlled the narrative of my trial. He pulled the strings, and the Government and Cooperating Witnesses acted accordingly).

#### B. Ineffective Assistance of Counsel

At sentencing I will be represented by my current Counsel, the Attorney Zoe Dolan. I hired Ms. Dolan for sentencing, and she helped me Supplement / Amend the Rule(s) 29 and 33 Pleadings filed by Predecessor Counsel, the Attorney Eric Breslin, whom was assisted by the Attorney, Mellissa Gellar (collectively, they will be referred to herein as Predecessor Counsel, and or by their respective names). I made the decision to relieve Predecessor Counsel after repeated

disagreements about how to proceed with my Case, and after my repeated requests to go over pleadings and relevant matters before making decisions and proceeding forward in this Case was ignored. Moreover, I felt as though Predecessor Counsel was not acting in my best interest at times, and was in fact a confederate, working to please the Government while simultaneously attempting to please me. Maybe though he was just scared of the Government, like so many other lawyers; however, if that was the case than such a fact would cause serious concerns regarding how our Government, especially the Executive Branches, abuse of powers can deny a criminal defendant of his rights to the effective assistance of Counsel by, at the very least, undermining a client's confidence in his attorney, thereby destroying the attorney-client relationship. See, e.g., *U.S. v. Amlani*, 111 F. 3d 705, 711 (9th Cir. 1997) (intentional intrusion into attorney-client relationship because government intentionally undermined defendant's confidence in attorney-client relationship by disparaging defense counsel).

For now though, I want to document the issues I have regarding Predecessor Counsels' deficient performance, and moreover how I was prejudiced by such. I aver that absent these deficiencies the result of the proceedings here would have been different. Here is a list of the deficiencies complained about by me regarding Predecessor Counsel:

1. Predecessor Counsel never should have stipulated to allowing the Government to bring forth testimony by Officer Sisco regarding the 2010 Traffic Stop; however, this was done despite my specifically saying that I did not agree to it.
2. I even emailed Predecessor Counsel on several occasions, to state that, in regards to the 2010 Traffic Stop, I never admitted to the cocaine being found in my waist band, or Ms. Williams Car. (See Exhibit(s) "A", and "B" - Emails to Predecessor Counsel).
3. I informed Predecessor Counsel to look into the specifics surrounding the 2010 Traffic Stop, and that therein it would show that: 1) Officer Sisco was lying about the arrest location; 2) I had NO "gang affiliation"; and 3) the case against me was dismissed. (See Exhibit "C" - Email to Predecessor Counsel; and, Exhibit "D" - NYC Police Department Complaint Form showing that: 1) I have NO gang affiliation, and 2) the traffic stop occurred at the North East Corner of Monteray Ave. and East 180th Street, NOT where Officer Sisco testified to when he lied to and misled the jury during my trial).
4. Moreover, I told Predecessor Counsel on several occasions that the disposition of the traffic stop and any related offenses were dismissed; and that I was wrongfully arrested, and badly assaulted by the arresting Officer(s), which resulted in me suing and wining in civil court (See Exhibit(s) "B" and "C" - Emails to Predecessor Counsel).
5. However, I was told by Predecessor Counsel that the disposition could not be located; despite me telling him where to look for this this information. (See Exhibit(s) "B" and "C" - Emails to Predecessor Counsel).
6. Specifically, Predecessor Counsel informed me that "Jesus Christ himself" could come down from the Heavens, and that I still would not be able to find the disposition to the 2010 Traffic



Stop. (That's because the Government attempted to hide this from me by, inter alia, having my name misspelled so that I could not find it if and when I had the clerk search the database / Court records. Fortunately, I was able to locate this though. See Exhibit "F" - A copy of the Disposition from the 2010 Traffic Stop showing that it was dismissed as a violation of my Fourth Amendment United States Constitutional Rights, and therefore, my Rights were restored).

7. Furthermore, I told Predecessor Counsel that I did not want to stipulate to the 2010 Traffic Stop, instead to move to suppress / dismiss any and all evidence and testimony regarding the same due to it not being relevant, and because all charges against me were dismissed.

8. Predecessor Counsel shouldn't have stipulated to the 2010 Traffic Stop, and should have investigated into my contentions and found the relevant documents relating to that case and the ensuing civil case. Moreover, being that such testimony was introduced, Predecessor Counsel should have moved to suppress / dismiss it, and or at the very least should have obtained the relevant information as I requested and used such to impeach / discredit Officer Sisco's trial testimony, shown that I had NO "gang affiliation", that NO drugs were found on my person (that I refuted this at the civil case proceedings), and that all charges against me were dismissed. Certainly, had Predecessor Counsel done these things, the result of the proceedings would have been different.

9. Also, Predecessor Counsel continuously failed to do his job of keeping me informed of important developments throughout the course of the prosecution.

10. Time and time again I requested Predecessor Counsel to first go over any and all pleadings with me before filing; however, Predecessor Counsel failed to, and at times refused to do so. (See Exhibit(s) "A", "B", and "C" - Emails to Predecessor Counsel).

11. In opening statements at trial, Predecessor Counsel told the jury that I had "big-scales". However, this was untrue.

12. I was never found to be in possession of "any" scales, and being that the case against me was for, among other things, narcotics conspiracy, Predecessor Counsel's allusion to the jury that the Government had in its possession a "big scale(s)", and that this was mine was clearly deficient performance which caused me to suffer great prejudice here.

13. And when I emailed Predecessor Counsel about this, he seemed to not remember that he said such a thing. (See Exhibit "E" - Email to Predecessor Counsel).

14. Predecessor Counsel also stated in the Objections to the Pre-Sentence Investigation Report (PSR) that I "shook my head", indicating that it was the wrong person, in relation to the murder for hire plot that was fabricated against me here. (See Objections to Draft Pre-Sentence Report, Dated July 19, 2019, filed by Predecessor Counsel). All that the CW, Adams, said was that: I allegedly looked at him and said nothing. Then Walked back in the van and drove off. (See TT Pp 679). There was absolutely NO mention of a "head nod". So, why Predecessor Counsel said this, I have no idea; it was clearly prejudicial though, despite the fact that I was found not guilty

of the underlying charge, it gave weight to a story that never happened, and is something that could prejudice me in the mind of the sentencing court (at the very least).

15. However, this also was untrue. It never happened, and NO ONE testified to this during my trial or anywhere else. Predecessor Counsel seems to have just made it up, along with the mysterious "big-scales" statement at trial and or in his rule 29, 33 submissions.
16. The list goes on and on and on as to the examples of deficient performance by Predecessor Counsel, which prejudiced my right to a fair trial here; however, for the purpose of this Sentencing Memorandum I will leave it to these examples.

### C. False and Contradictory Testimony; and Problematic Evidence

The Government's case against me here was not based upon any direct evidence, but was founded upon the lies and fabrications of several cooperating witnesses (CWs), and upon the lies of Officer Sisco. Moreover, there is several other problems with the testimony and so-called evidence which the Government presented; i.e., evidence was presented that should not have been allowed because it was obtained in violation of my Constitutional Rights, and had nothing to do with this case.

The major concern that I have and want to raise is that the Government was so lacking in an actual case against me that they had to retreat to such tactics as introducing this problematic evidence; which was done to damage my character, and convince the jury that they should find me guilty because: look at all these things which appear damaging. However, that is not how the law is supposed to work, and it's obvious that I should be given a new trial because absent this problematic evidence - that never should have been allowed at trial - the result of the proceedings would have been different, i.e.: I would not have been found guilty.

Now, here is a list of some of the false and problematic evidence which resulted in my wrongful conviction:

1. The Government knew that the 2010 Traffic Stop took place at the North East Corner of Monterey Avenue and East 180th Street. (See Exhibit "D" - NYC Police Department Complaint Form from August 3, 2010 Traffic Stop). The Government cannot say that they did not know the correct location of the traffic stop because, inter alia, they possessed and had access to this same information / documents (This same information was in the Discovery given to me by the Prosecution!!).

2. However, the Government's theory / case against me had me allegedly residing at and allegedly operating (selling drugs) out of the Honeywell Complex, near Honeywell Avenue. For example, the Government's Cooperating Witness, Michael Adams, alleged during trial he first met me in the "Honeywell Plaza" (see TT Pp 172 LL 2-3); and, that is where he claimed that I lived. (See Id. at LL 5).

3. The Government had several Cooperating Witnesses testify to me allegedly engaging into criminal activity at the Honeywell Complex; for example, Adams testified that I allegedly gave

him "a gun" and "some drugs" there--a "little black gun", and "[a]bout 60 grams" of "cocaine".  
(See TT Pp 173 LL 5-16).

4. Again, later in the trial when Adams alleged to have done third party drug transactions with me, in response to the Court asking where such transactions took place (see TT Pp 360-362), Adams stated "[i]n the Bronx, in the Plaza." (TT Pp LL 6):

Q. What Plaza?

A. Honeywell.

Id. at LL 7-8.

5. THE COURT then asked: When you say 'the Plaza,' that's the Plaza in the Honeywell projects? (Id. at LL 20-21)(Quotations in original); to which Adams responded: "Correct". (Id. at LL 22).

6. The Government - at this time - published photographs of the Honeywell Complex, and asked Adams if he recognized such (see TT Pp 362-363); and then asked Adams if he recognized such, and where did I live. (See Id.). (And it should be noted that Adams had trouble / was unable to accurately identify where it was that I "allegedly" lived at in the Honeywell Complex. That is because I never lived there; his testimony to this was also a lie).

7. Therefore, it is evident that the Government needed to place me at / near Honeywell Complexes; and they stopped at nothing to do this--they committed a crime by having Officer Sisco testify at trial that the August 3, 2010 Traffic Stop took place at Mohegan Avenue and 180th Street. And they specifically chose this location because it is the cross street that's connected to the Honeywell complex.

8. This explains why the Government intentionally lied to and misled the jury when Officer Sisco was on the stand:

Q. Let me turn your attention to August 3, 2010, on that date did you respond to a traffic stop at 180th Street and MOHEGAN Avenue in the Bronx?

A. Yes, I did.

Q. HOW FAR AWAY IS MOHEGAN AVENUE FROM HONEYWELL AVENUE?

A. One city block.

TT Pp 2836 LL 15-20 (Emphasis Added).

9. The Government then furthered there crimes of perjury and official misconduct by misleading the Jury more with the introduction as an exhibit, a map, which they had Officer Sisco put a dot to mark the FABRICATED arrest location (see TT Pp 2836-2837); and then, went on to mislead

the jury into making it appear that the arrest of me in the 2010 Traffic Stop occurred near the Honeywell complex:

Q. Detective Sisco is 180th Street and Mohegan Avenue close by to any residential apartment buildings?

A. Yes.

Q. Where are the residential apartment buildings located?

A. WOULD YOU LIKE ME TO DRAW A CIRCLE AS WELL?

Q. Yes.

A. (Complies).

MR. CHAN: Your Honor let the record reflect the witness drew a circle around TWO BUILDINGS located between 180th Street and 181st Street BETWEEN HONEYWELL AVENUE and MOHEGAN AVE.

TT Pp 2837 LL 11-22 (Emphasis Added).

10. The evidence here of the crimes committed by the Government against me in their efforts to wrongfully charge and convict me could not be more damaging. These Government officials knowingly, willfully, intentionally, and maliciously deprived me of my Civil Rights here; and because of this I was **WRONGFULLY CONVICTED**. Absent such misconduct, the result of these proceedings would have been different--i.e., I would not have been found guilty.

11. Thankfully, I was able to get Predecessor Counsel to establish on Cross of Officer Sisco that he testified falsely as to the arrest location for the 2010 Traffic Stop; I established that it actually occurred about one mile away from where Officer Sisco testified to. In fact, the **REAL** arrest location was so far away from the **FALSE** one that it was not even located on the Government's map that they introduced as an exhibit, and had Officer Sisco intentionally put a dot by the false arrest location, and then Circle the Honeywell Complex as being near this **FALSE** arrest location.

12. This was all for show, and was done by the Government to mislead the Jury so that they could wrongfully convict me. Officer Sisco and the Government knew the entire time what the real arrest location was, but it did not fit their version of events, so they lied and coerced witnesses in order to make it so.

13. Once Predecessor Counsel pointed out to Officer Sisco the **TRUE** arrest location, and that this was not what he testified to, Officer Sisco's memory then became extremely questionable: All Officer Sisco could say from then on is, " I do not recall", " I do not recall." (See TT Pp 2868-2871) (Paraphrasing Original). This is because Officer Sisco was caught in his lie.

14. I'd also like to point out that Predecessor Counsel also never investigated into the Government's allegations of Western Union Transactions; however, he never investigated into this, nor challenged such before or during trial.

15. The Government alleged that I sent two \$150.00 Western Union Transaction, and one for \$100, in the town of Elmira. And none of these alleged transactions had the same address listed on the Identification of Brandon Green.

16. The Government did not even have an expert testify to these things either; they used their own Paralegal, and Predecessor Counsel did not object nor challenge this in any way.

17. Also, Predecessor Counsel did not investigate nor bring up during trial why the Government's CW, Rosario, whom was coerced into saying that Saeed Kaid aka "O-Dog", sent him a \$2000.00 Western Union (around Christmas)(See TT Pp 2993-97); specifically, this transaction was not in the Government's Summary Chart (because it never actually occurred).

18. It is a well-known fact that in New York, any Western Union Transaction over \$1000.00 must be accompanied by an ID / Proper Identification. Patrick Daly even testified to this fact at Trial in response to the Court's questioning him. (See TT Pp 2631-33).

19. Lastly, I'd like to address the fabricated testimony of CW, Michael Adams, whom was the Prosecutions Star Fabricator here: Adams alleged that he used to do third party stuff for me, that if someone wanted to buy drugs that he would send them to me (See TT Pp 347), he stated that he received kilos upon kilos of cocaine from me, and that gave cocaine and heroin to Saeed Kaid in a bag. These are just some of the many examples of Adams alleging that he received / engaged in drug transaction with me. However, when asked: Did you ever see 'Light doing hand-to-hand' sales of drugs? He stated: "NO"! Admitted that I'm not a drug dealer or supplier, and contradicting all of his earlier testimony to these things. (See TT Pp 363) (Emphasis Added).

## V. Argument with Supporting Legal Authority

Mr. Green contends that his conviction should be vacated with prejudice due to the fact that there was a complete breakdown in the administration of justice here. These proceedings were not brought with clean-hands, nor in good-faith. Mr. Green was subjected to a malicious and vindictive prosecution, based upon perjury, lies, fabricated evidence and testimony; and he was deprived of the type of adequate meaningfully effective representation guaranteed to him under the United States Constitution. Moreover, it cannot be said that these proceedings were fair, and therefore Mr. Green should now be restored his freedom, and those involved with violating his rights here shall be held accountable--only then will justice be had.

In our Adversarial System of Criminal Justice, justice is had by the emergence of the truth throughout regular proceedings in Court in which both parties are vigorously represented; however, this is assuming that those involved with the administration of justice - with interpreting the laws, enforcing the same, and with advocating a criminal defendant's cause - are in fact acting in good-faith in the performance of their duties. What happens though then there is



a complete breakdown in fundamental fairness; when those in charge of the administration of justice are instead breaking the laws and violating the rights of the People? What then...can justice be had?

Where, as is the case here, those in charge with administering justice fail us, and deprive a citizen of his rights guaranteed to him under the Constitution and laws of the United States, the only way to ensure justice is to dismiss the charges against the defendant, with prejudice--as such a remedy provides justice by restoring public confidence in the justice system, and by deterring future misconduct by the government officials in charge with enforcing the laws. And that is what must happen here.

Here, Mr. Green was convicted by a jury of his peers following a trial for, among other things, Racketeering Conspiracy. A deeper look though into the true circumstances and facts surrounding this case, the investigation and trial, brings to light some serious concerns regarding the integrity of these proceedings, and the validity of Mr. Green's conviction(s). It is evident that the charges against Mr. Green cannot stand, and need to be dismissed as a result of a complete breakdown in the integrity of the proceedings. Due to the Official Misconduct of the Officers, Prosecutors; because of the lies committed by the Cooperating Witnesses, and as a result of the failures of Predecessor Counsel to provide Mr. Green with the effective assistance of counsel, his charges now need to be dismissed. That is the only way that justice can be had here.

#### The Prosecutorial and Official Misconduct; and the Vindictive and Malicious Prosecution

The Prosecutor's duty in a criminal prosecution is to seek justice. See *Berger v. U.S.*, 295 U.S. 88 (1935). Therefore, the prosecutor should "prosecute with earnestness and vigor," but may not use "improper methods calculated to provide a wrongful conviction." *Id.* Prosecutorial Misconduct justifies declaring a mistrial where it "so infect[s] the trial with unfairness as to make the resulting conviction a denial of due process." *Darden v. Wainwright*, 477 U.S. 168, 181 (1996)(Quoting *Donnelly v. DeChristoforo*, 416 U.S. 637, 643 (1974)). A claim of prosecutorial misconduct requires proof of improper conduct by the prosecutor that, taken in the context of the trial as a whole, violated the defendant's due process rights. See, e.g., *U.S. v. Wihbey*, 75 F. 3d 761, 773 (1st Cir. 1996) (Court considered whether prosecutor's remarks improper and whether remarks affected the outcome or fairness of trial).

The prosecutorial and official misconduct complained about here concerns Mr. Green's having been subjected to a vindictive and malicious prosecution; and, in doing so Government officials further conspired to and did in fact knowingly, willfully, and maliciously violate Mr. Green's Civil Rights in violation of, Title 42 U.S.C. Section 1983, and Title 18 U.S.C. Sections 241 and 242.

Here, Government Officials in charge with enforcing the laws of the United States Committed several crimes when they worked together to maliciously and vindictively fabricate a case against Mr. Green: They intentionally lied to and misled the Grand Jury by testifying falsely to statements allegedly obtained throughout the course of their investigation; and they coerced and encouraged cooperating witnesses (CWs) to fabricate their testimony so that they could wrongfully indict, charge, and bring to trial and convict Mr. Green. These things are clearly a

violation of the roles and duties of the prosecutor, a violation of the laws, done contrary to the Constitution, which did in fact deprive Mr. Green of his rights to, inter alia, due process of the law, and moreover, undermined confidence in the fairness in and outcome of these proceedings.

Clearly, it cannot be said that these unethical and criminal acts did not affect the outcome if these proceedings here. Such a breakdown in fundamental fairness cannot be said to be harmless error.

The only thing that can be said for sure is that these proceedings were unfair, and that in the interest of justice, and due to the extent of the violations of Mr. Green's rights here, this case should be dismissed.

Review of the testimony herein supports these contentions. In fact, it is not only Mr. Green complaining that this case is founded upon fabricated evidence and testimony, even the Government's own Cooperating Witnesses agree: For example, recall the testimony of Manuel Rosario, stating that he seen fabrications in this case; and Thomas Morton stating that he NEVER possessed a kilogram or more of heroin, 5 kilograms of crack, and 5 kilograms or more of cocaine, "this is what I mean by this case is a bunch of lies." (See TT Pp 1158)(Paraphrasing Original). These were the Governments own Cooperating Witnesses saying this!!

#### Ineffective Assistance of Counsel

The Sixth Amendment provides that "[i]n all criminal prosecutions, the accused shall enjoy the right . . . to have the assistance of counsel for his defense." U.S. Const. Amend. 6. That a person happens to be a lawyer is present at trial alongside the accused is not enough to satisfy the Sixth Amendment; an accused is entitled to be assisted by an attorney, whether retained or appointed, who plays the role necessary to insure that the trial is fair. *Strickland v. Washington*, 466 US 668, 80 L Ed 2d 674, 676. In representing a criminal defendant, counsel owes the client a duty of loyalty, a duty to avoid conflicts of interest, a duty to advocate the defendant's cause, a duty to consult with the defendant on important decisions, a duty to keep the defendant informed of important developments in the course of the prosecution, and a duty to bring to bear such skill and knowledge as will render the trial a reliable adversarial testing process. *Id.* at 677.

Here, it is evident that I had an attorney standing next to me throughout my trial; in fact, I had two, but that is all that I had: Two attorneys standing next to me, not much more. Predecessor Counsel did not "play the necessary role here to insure that the trial is fair" ; and did not "bring to bear such skill and knowledge as will render the trial a reliable adversarial testing process." See, *Id.* All predecessor counsel did here was agree to a bunch of stipulations with the government, this was their entire defense on direct:

MS. GELLER: Your Honor, while we're waiting, the Green defense has come to an agreement with the government. The defense direct case for Mr. Green will be JUST A HANDFUL OF STIPULATIONS, your Honor.

Trial Transcript (TT) Page(s) (Pp) 2754 Line(s) (LL) 3-6 (Emphasis Added). And, to make matters worse, Predecessor Counsel failed to go over these stipulations with me, and even allowed some of them over my objections and requests that such not be stipulated to.

Specifically, Predecessor Counsel stipulated with the Government here to allow the introduction of testimony and other evidence from a traffic stop that I was involved in in 2010 (the 2010 Traffic Stop). And I vehemently maintained to Predecessor Counsel my position that I did not agree with this stipulation, and stated that any and all testimony and or evidence concerning the 2010 Traffic Stop should be dismissed, suppressed, or moreover not allowed in trial in any way shape or form. Also, I informed Predecessor Counsel that the 2010 Traffic Stop was completely irrelevant. This, like all things, seemed to fall on deaf ears though.

Moreover, seeing that Predecessor Counsel was not going to abide by my requests not to stipulate to the 2010 Traffic Stop, and to move to suppress or dismiss any and all relevant evidence and or testimony, I made sure to inform Predecessor Counsel in detail the issues surrounding the 2010 Traffic Stop: I informed Predecessor Counsel to get the disposition of that case, and it would show that it was dismissed--I was never convicted of ANYTHING! Also, I stated that during the 2010 Traffic Stop I was wrongfully arrested, and severely beaten by the arresting officer(s); that this resulted in me bringing and winning a civil lawsuit against the NYPD. And, I told Predecessor Counsel to get the arrest affidavit/report from the 2010 Traffic Stop to show that it states I had NO gang affiliation; which, for some reason I cannot image, Predecessor Counsel agreed with the Government over my objections to redact that part of the arrest affidavit at trial. Lastly, I told Predecessor Counsel to locate the transcripts and records from the civil lawsuit I filed in connection with the 2010 Traffic Stop; which I stated would show that the Officer testifying against me was lying, and had motive to lie.

Predecessor Counsel received the transcripts from the civil case, but never introduced or used such during trial, and, like I previously stated, for some reason even stipulated to redacting the fact that I had NO gang involvement in a Rico Case which hinged upon such a question: I.E., was I a member of the BHB, especially at the time of the 2010 Traffic Stop. The Government needed to prove this if they were going to argue that there was a nexus to this case. Predecessor Counsel's conduct here clearly was deficient, and could not have been strategic--it was just another way to help the government violate my rights, and wrongfully convict me. And, as it relates to the 2010 Traffic Stop disposition, Predecessor Counsel stated to me that there was no way that I was going to locate it; that "Jesus Christ Himself" could come down from the Heavens, and I still would not find it with his divine help. (This was because the Government tried to hide it from me so that I could not locate it to use such to prevent the introduction and use of the 2010 Traffic Stop. Thankfully, I've now found it).

Had Predecessor Counsel not stipulated to the 2010 Traffic Stop, there is a reasonable probability that the result of the proceedings would have been different; e.g., I would not have been found guilty of Racketeering and or the Narcotics Conspiracy at trial, and, but not limited to, I would not have been found guilty for as large a quantity of cocaine, and this would have subjected me to less severe punishments here. Predecessor Counsel never should have stipulated to the 2010 Traffic Stop, and never should have stipulated to redacting the NO gang affiliation column in the arrest affidavit/report. No reasonable attorney would have stipulated to such in a case like this. Stipulating to this allowed a police officer to get on stand and testify that he found cocaine in my waist band in 2010; cocaine that I was never convicted of possessing. What the Officer testified to in fact was a lie, like all the other lies he was caught in on stand (Officer

Sisco also lied about the arrest location). Clearly Predecessor Counsel's deficient performance here prejudiced me by negatively affecting the outcome of my trial.

Predecessor Counsel also should have, at the very least, presented to the jury that I had NO gang affiliation, argued that there was no nexus between the 2010 Traffic Stop and the Government's case, and shown that Officer Sisco was lying and had motive to lie, not to mention that I was never convicted of possessing any drugs nor of any charges relating to the 2010 Traffic Stop. Ergo, Predecessor Counsel's stipulation here, allowing the Government to present evidence and testimony that I was found in possession of cocaine during the 2010 Traffic Stop, is tantamount to an admission of guilt, and was done without my consent and over my objection in violation of my Sixth Amendment right to the effective assistance of counsel, and in violation of, ABA Standards Governing the Defense. This was highly prejudicial, and resulted in me being wrongfully convicted. Absent Predecessor Counsel's deficient performance here, the result of the proceedings would have been much different. It cannot be said otherwise.

It's also evident that Predecessor Counsel severely prejudiced my rights to a fair trial when he said in his opening statements to the jury that the Government had in its possession "big-scales", which he implied were mine. Big scales are used by narcotics traffickers, and that is what I was on trial for, among other related offenses. And it cannot be said that such an issue here is harmless: Clearly with a case like this where there is a lack of physical and direct evidence, such as implication by ones' own lawyer must weigh heavily in favor of guilt in the minds of the jurors. Moreover, absent such a critical error by Predecessor Counsel, I would not have been found guilty here. Predecessor Counsel also put in the Rule(s) 29 and 33 Pleadings that I was in possession of a "kitchen scale" at the time of my arrest in Bridgeport, Conn. Again, I was never found to possess any scales at all, "big nor kitchen."

Due to all of the issues relating to ineffective assistance of counsel, taken separately and or together, and especially in conjunction with all of the other issues and constitutional violations discussed herein, it cannot be said that these proceedings were fair. Therefore, my charges shall be dismissed, with prejudice, and or at the very least I should be given a new trial--a trial that is fair.

#### Problematic Evidence; and False and Contradictory Testimony

The last argument that I want to address concerns the problematic evidence, and the false and contradictory testimony. This case was riddled with such things; and this played a substantial role in my wrongful conviction here. These issues were brought to the Court's attention in various pleadings and papers filed by me and my current and former attorneys, and I again have given some examples herein. Therefore, the Court should be familiar with these concerns.

What I'm now suggesting is that, due to these things, my conviction should be vacated, and the indictment dismissed, with prejudice; and/or, in the alternative, to give me a new trial--a trial that is devoid of such things. Justice should have it no other way.

It cannot be said that these things did not undermine fairness in these proceedings, nor can it be said that such did not contribute to my wrongful conviction here.

Specifically, the firearms found were obtained in violation of the Fourth Amendment of the United States Constitution. Not only did the Officers lie about how they obtained consent, such consent was not valid. Moreover, the Officers involved in my arrest and the search and seizure committed several crimes in their attempts to make it appear as though they legally searched the apartment and seized the items allegedly found. And all this illegality renders these proceedings fundamentally unfair.

As stated and shown earlier, the Officers lied about finding money in the closet on the floor by some guns, and lied about why they pulled over Jennifer Turcios, and rode with her in her car back to her apartment, where I was in. They also lied about the Paid Confidential Informant (CI) they allegedly used to obtain my cell phone number; they never listed this CI, and despite me asking Predecessor Counsel to move to suppress the cell cite information and challenge the CI, none of this occurred. Lies, lies, and more lies; that is what this case was built upon. Not only is this illegal, it is unfair.

The lies did not stop with my arrest and the illegal entry and search of the residence I was at; they occurred at all stages of the proceedings, especially at trial. At trial the CWs, and even the Police (Officer Sisco), lied to the jury. And these lies were used to wrongfully convict me. There is just no way can a conviction upon such grounds stand--to do so would be a grave injustice.

Therefore, in the interest of justice and fairness, and to help promote public confidence in the judiciary, my conviction should be vacated, and the indictment dismissed, with prejudice; and/or, I should be granted a new trial, one without such problematic evidence, and without these lies.

Sincerely,

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